

#### § 1049.4

#### 10 CFR Ch. X (1–1–10 Edition)

the jurisdiction or administration, or in the custody of the Department of Energy under part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231–6247).

(g) *Suspect* means a person who is subject to arrest by a Protective Force Officer as provided in these guidelines.

#### § 1049.4 Arrest authority.

(a) Under the Act, the authority of a DOE Protective Force Officer to arrest without warrant is to be exercised only in the performance of official duties of protecting the SPR and persons within or upon the SPR.

(b) A Protective Force Officer is authorized to make an arrest for a felony committed in violation of laws of the United States, or for a misdemeanor committed in violation of laws of the United States if the offense is committed in the officer's presence.

(c) A Protective Force Officer also is authorized to make an arrest for a felony committed in violation of laws of the United States if the Officer has reasonable grounds to believe that the felony has been committed, or that the suspect is committing the felony, and is in the immediate area of the felony or is fleeing the immediate area of the felony. "Reasonable grounds to believe" means that the facts and circumstances within the knowledge of the Protective Force Officer at the moment of arrest, and of which the Protective Force Officer has reasonably trustworthy information, would be sufficient to cause a prudent person to believe that the suspect had committed or was committing a felony.

#### § 1049.5 Exercise of arrest authority—General guidelines.

(a) In making an arrest, and before taking a person into custody, the Protective Force Officer should:

(1) Announce the Protective Force Officer's authority (*e.g.*, by identifying himself as an SPR Protective Force Officer);

(2) State that the suspect is under arrest; and

(3) Inform the suspect of the crime for which the suspect is being arrested. If the circumstances are such that making these announcements would be useless or dangerous to the Officer or

to another person, the Protective Force Officer may dispense with these announcements.

(b) At the time and place of arrest, the Protective Force Officer may search the person arrested for weapons and criminal evidence, and may search the area into which the person arrested might reach to obtain a weapon to destroy evidence.

(c) After the arrest is effected, the person arrested shall be advised of his constitutional right against self-incrimination ("*Miranda* warnings"). If the circumstances are such that immediately advising the person arrested of this right would result in imminent danger to the Officer or other persons, the Protective Force Officer may postpone this requirement. The person arrested shall be advised of this right as soon as practicable after the imminent danger has passed.

(d) As soon as practicable after the arrest is effected, custody of the person arrested should be transferred to other Federal law enforcement personnel (*e.g.*, U.S. Marshals or FBI agents) or to local law enforcement personnel, as appropriate, in order to ensure that the person is brought before a magistrate without unnecessary delay.

(e) Ordinarily, the person arrested shall not be questioned or required to sign written statements unless such questioning is:

(1) Necessary to establish the identity of the person arrested and the purpose for which such person is within or upon the SPR;

(2) Necessary to avert an immediate threat to security or safety (*e.g.*, to locate a bomb); or

(3) Authorized by other Federal law enforcement personnel or local law enforcement personnel responsible for investigating the alleged crime.

#### § 1049.6 Exercise of arrest authority—Use of non-deadly force.

(a) When a Protective Force Officer is authorized to make an arrest as provided in the Act, the Protective Force Officer may use only that degree of non-deadly force that is reasonable and necessary to apprehend and arrest the suspect in order to prevent escape or to defend the Protective Force Officer or other persons from what the Officer